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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/873,974    06/12/97    SCROGGIE

M    CAT/34

EXAMINER

LM01/0630

OBLON, SPIVAK, MCLELLAND, MAIER & NEVSTADT  
CRYSTAL SQUARE FIVE 4TH FLOOR  
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CAUDLE, P

ART UNIT

PAPER NUMBER

2765

DATE MAILED:

06/30/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/873,974**

Applicant(s)  
**Scroggie et al**

Examiner  
**Penny Caudle**

Group Art Unit  
**2765**

☒ Responsive to communication(s) filed on Apr 16, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-23 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-23 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5, 11 & 12

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

1. In response to the Request for Reconsideration, claims 1-23 have been examined.

#### ***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-23 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention, as discussed in paragraph 3 of paper number 4.

#### ***Response to Applicant's Arguments***

4. Applicant's arguments filed April 16, 1999 have been fully considered but they are not persuasive.

As to Applicant's arguments that the cited articles, do not teach or suggest "(i) 'storing the conditions of manufacturer offers, pertaining to multiple product manufacturers, in a database...(iv)' storing the conditions of manufacturer product purchase incentives...with a product incentive server site coupled to the network'"(page 2 paragraph 2), the examiner agrees. However, the basis of the rejection was the public use or sale of the applicant's invention, "Supermarkets Online" (see specification page 8 line 17), more than a year prior to the date of application for patent, as evidence by the cited articles. (See paragraph 3 of paper number 4).

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Both article clearly disclose that the applicant's invention "Supermarkets Online" was available for public use prior to June 12, 1996. In addition applicant's IDS(paper number 5), discloses news letters from Catalina Marketing Corporation, assignee of the instant application, dated February 11 and April 19, 1996, which disclose applicant's invention to the public prior to June 12, 1996.

*Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Penny Caudle whose telephone number is (703) 305-0756. The examiner can normally be reached Monday-Thursday from 6:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen MacDonald, can be reached at (703) 305-9708.

The fax number for Formal or Official faxes to Technology Center 2700 is (703) 308-9051 or 9052. Draft or Informal faxes for this Art Unit can be submitted to (703) 308-5357.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

plc

June 24, 1999

  
ERIC W. STAMBER  
PRIMARY EXAMINER